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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

15 ARTHUR G. MAIONCHI, EDWARD A.
MAIONCHI, THOMAS S. DINETTE, and
CHARLES J. KRAFT,

17 Plaintiffs,

18 vs.

19 UNION PACIFIC CORPORATION, a Utah
Corporation,

21 Defendants.

Case No. C 03-0647-JF

**STIPULATED REQUEST FOR CASE
MANAGEMENT CONFERENCE;**

[PROPOSED] ORDER THEREON

1 Pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule 16-10(c), plaintiffs Arthur
 2 G. Maionchi, Edward A. Maionchi, Thomas S. Dinette and Charles J. Kraft (collectively, "Plaintiffs")
 3 and defendant Union Pacific Corp. ("Union Pacific") hereby stipulate and jointly request that the
 4 Court schedule a Case Management Conference in this matter.

5 In 2003, Plaintiffs filed this breach of contract and declaratory relief action, seeking indemnity
 6 from Union Pacific under a merger agreement for costs relating to environmental contamination at
 7 property known as 1470A Industrial Avenue in San Jose, California.

8 On February 23, 2004, this Court granted the motion of defendant Union Pacific and then-
 9 defendant Safety-Kleen Services, Inc.¹ for summary judgment against Plaintiffs, and entered judgment
 10 in favor of both defendants the same day. Plaintiffs appealed the judgment. On December 30, 2005,
 11 the Ninth Circuit Court of Appeals reversed and remanded the February 23, 2004 judgment of this
 12 Court. A copy of the Ninth Circuit's judgment is attached as Exhibit A.

13 The parties hereby jointly request that the Court schedule a Case Management Conference for
 14 the purposes of (1) considering issuance of a case scheduling order in this matter, and (2) resolving a
 15 dispute among the parties regarding the issues remaining for trial.

16 The parties further request that the Court schedule the Case Management Conference for
 17 October 13, 2006 or as soon thereafter as is convenient for the Court. The parties additionally request
 18 that they be permitted to file separate Case Management Conference Statements, not to exceed fifteen
 19 (15) pages in length, not fewer than ten (10) days prior to the conference, in which they will set out
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¹ In October 2004, Plaintiffs settled their claims with Safety-Kleen Services, Inc., and dismissed the appeal as to that defendant.

1 their proposed dates for a case scheduling order and their respective positions regarding the issue(s)
2 left to be decided in this action.

3 Dated: August 7, 2006

Respectfully submitted,

4 ALLEN MATKINS LECK GAMBLE MALLORY &
5 NATSIS LLP
6 COX, CASTLE & NICHOLSON LLP

7 By: s/Stuart I. Block

8 Stuart I. Block, Attorneys for Plaintiffs
9 ARTHUR G. MAIONCHI, EDWARD A.
MAIONCHI, THOMAS S. DINETTE, AND
CHARLES J. KRAFT

11 Dated: August 7, 2006

12 BARG COFFIN LEWIS & TRAPP LLP

13 By: s/Marc A. Zeppetello

14 Marc A. Zeppetello
15 Attorneys for Defendants
UNION PACIFIC CORPORATION

18 **[PROPOSED] ORDER**

19 For the reasons set forth above, and good cause appearing therefor, the Court hereby orders:

20 1. A Case Management Conference shall be held in this matter at 10:30 AM/PM on
21 October 13 _____, 2006.

22 2. No less than ten (10) days prior to the scheduled Case Management Conference,
23 Plaintiffs and Union Pacific shall each submit a Case Management Conference Statement, not to
24 exceed fifteen (15) pages in length, setting forth proposed dates for a case scheduling order, and its
25 respective position regarding the issue(s) left to be decided in this action.

1 3. The parties shall meet and confer in good faith prior to filing their respective statements
2 to attempt to reach agreement on proposed dates for a case scheduling order.

3 IT IS SO ORDERED.
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5 DATED: August 9, 2006
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Hon. Jeremy Fogel
United States District Judge

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